

Amendment No. 1 to SB0224

Johnson  
Signature of Sponsor

**AMEND Senate Bill No. 224\***

**House Bill No. 443**

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 22, is amended by adding the following language as a new part:

**47-22-301.** As used in this part:

(1) "Account purchase transaction" means an agreement under which a commercial entity sells accounts, instruments, documents, or chattel paper to another commercial entity subject to a discount or fee, regardless of whether the commercial entity has a repurchase obligation related to the transaction;

(2) "Acquired" means the obtaining of business records, a credit card account, or an instrument evidencing an outstanding debt through an ownership transfer, including a contractual agreement, an account purchase transaction or assignment in a creditor's regularly conducted business;

(3) "Cardholder" means any person who has agreed with a card issuer to pay debts arising from card transactions, whether the card used in such transactions has been issued to the cardholder or to another person;

(4) "Credit card account" means any account that can be accessed by a credit card, including a debit card with a credit feature, whereby the cardholder may obtain loans from time to time either by credit card cash advance or by the purchase or satisfactions by the bank of obligations of the cardholder incurred pursuant to a credit card;

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(5) "Creditor" means the person, business, financial institution or commercial entity that currently owns a credit card account or an instrument evidencing outstanding debt;

(6) "Custodian" means and includes an individual, agent, employee, representative, or officer of a creditor, or an individual, agent, employee, representative, or officer of a management company charged with keeping a creditor's records, or any individual familiar with the books and records of a creditor or an appropriately designated person who is an official custodian of records;

(7) "Electronic records" means that information evidenced by a record or records consisting of information stored electronically which may be produced tangibly;

(8) "Financial institution" means:

(A) A banking institution that is authorized to issue credit cards pursuant to federal or state law;

(B) A banking subsidiary owned by a bank holding company as defined in 12 U.S.C. § 1841, or by a savings and loan holding company as defined in 12 U.S.C. § 1467a(a)(1)(D); or

(C) Any other federally regulated banking institution;

(9) "Incorporated" means to integrate into records, to make a part of records, to place within records, or to treat as records;

(10) "Issuer" means a person, business, financial institution, commercial entity or authorized agent of a financial institution that currently issues a credit card account or an instrument evidencing outstanding debt;

(11) "Original creditor" means the person, business, financial institution or commercial entity that had the original contractual agreement with a cardholder on a credit card account or an instrument evidencing outstanding debt;

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal entity; and

(13) "Succeeding creditor" means any creditor, not the originating creditor, succeeding to an ownership interest in a credit card account or an instrument evidencing outstanding debt by bill of sale or assignment.

**47-22-302.**

(a) A creditor's records shall include, but are not limited to, written or electronic records of an original creditor, issuer, or succeeding creditor that have been acquired by the creditor through a contractual agreement, an account purchase transaction or assignment in the creditor's regularly conducted business and such records are:

(1) Incorporated as a business duty into the records of the creditor's regularly maintained records; and

(2) Relied upon in the creditor's regularly conducted business activity.

(b)

(1) Except as provided in subdivision (b)(2), records described in subsection (a) shall be considered records of the creditor and the creditor's records custodian may testify with respect to such records as if they are records of the creditor.

(2) The provisions of subdivision (b)(1) shall not apply if the source of information or the method or circumstances of preparation indicate the records described in subsection (a) lack trustworthiness.

(c) The records described in this section may be submitted as records of regularly conducted activity pursuant to Rule 803(6) of the Tennessee Rules of Evidence.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.